

STATE OF NEW YORK

155

2023-2024 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2023

Introduced by M. of A. SOLAGES, MITAYNES, EPSTEIN, TAYLOR, GIBBS, L. ROSENTHAL, WALKER, ANDERSON, REYES, CRUZ, MAMDANI, SIMON, JACKSON, KELLES, AUBRY, GONZALEZ-ROJAS, FORREST -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to establishing application processing and review requirements for reprieves, commutations and pardons

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "Clemency Justice Act of 2023".

3 § 2. Legislative findings and intent. The legislature hereby finds
4 that families and communities are frequently torn apart due to the
5 United States' overzealous legal system and immigration system, and that
6 one of the predominant tools to mitigate this issue, executive clemency,
7 is grossly underused. Between 2017-2020, the governor's office received
8 6,405 clemency applications while only granting 81 pardons and 14 commu-
9 tations. The legislature further finds that the clemency process is
10 convoluted, unequal, and difficult to navigate with no way for appli-
11 cants to check the status of their application or expedite it in case of
12 an emergency. Meanwhile, an estimated 9,000 people, of which the over-
13 whelming majority are people of color, are serving life sentences while
14 an unprecedented pandemic ravages prisons and detention centers. A
15 simpler, more holistic approach to granting clemency would begin to
16 address the systemic injustices of the immigration and criminal legal
17 systems.

18 § 3. The executive law is amended by adding a new section 15-a to read
19 as follows:

20 § 15-a. Process and requirements for considering applications and
21 requests for reprieves, commutations and pardons. 1. Upon receipt of an

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 application for a reprieve, commutation or pardon, the governor shall
2 provide to the applicant:

- 3 a. a written notification that the application has been received;
- 4 b. a receipt number that the applicant can then use to check on his or
5 her application status;
- 6 c. guidelines for supplementing the application with additional or
7 updated information; and
- 8 d. an electronic or written notification when a decision is made on
9 the application.

10 2. a. The application for a reprieve, commutation or pardon shall
11 include a section allowing applicants to describe an urgent need for the
12 reprieve, commutation or pardon. For the purposes of this section, an
13 "urgent need" shall include, but not be limited to, a pending deporta-
14 tion proceeding or final deportation order, humanitarian concerns,
15 health issues and the aging status of the applicant.

16 b. Applicants are permitted to update an application to indicate
17 urgent need due to changed circumstances following the initial
18 submission of the application.

19 3. The governor shall issue a decision on applications indicating
20 urgent need within ninety days from the date the application is
21 received. All other applications shall be granted or denied, or contin-
22 ued within one year from the date that the application is received. All
23 applicants shall receive written notification of any such action taken
24 on the application. Continued applications shall be left open to allow
25 applicants to submit further supporting materials according to guide-
26 lines provided to the applicant by the governor.

27 § 4. Section 17 of the executive law, as added by chapter 545 of the
28 laws of 1971, is amended to read as follows:

29 § 17. Governor to ~~communicate annually to legislature, reprieves,~~
30 ~~commutations and pardons. He must annually communicate to the legisla-~~
31 ~~ture, each case of reprieve, commutation or pardon; stating the name of~~
32 ~~the convict, the crime of which he was convicted, the sentence and its~~
33 ~~date, and the date of the commutation, pardon or reprieve]~~ submit
34 reports to the legislature on a quarterly basis regarding reprieves,
35 commutations and pardons. 1. The governor shall submit a report to the
36 legislature on a quarterly basis regarding reprieves, commutations and
37 pardons.

38 2. Such report shall include:

39 a. The number of applications for reprieves, commutations and pardons
40 submitted pursuant to section fifteen-a of this article; and

41 b. If a reprieve, commutation or pardon was granted: (i) the date of
42 the commutation, pardon or reprieve; and (ii) the age, gender, race and
43 ethnicity of the approved applicant; or

44 c. If a reprieve, commutation or pardon was denied, the age, gender,
45 race and ethnicity of the denied applicant.

46 3. Such reports shall not include any personally identifiable informa-
47 tion about applicants.

48 4. The reports required by this section shall be published on a
49 publicly accessible website.

50 § 5. This act shall take effect on the sixtieth day after it shall
51 have become a law and shall apply to applications for reprieves, commu-
52 tations and pardons received before, on or after the effective date of
53 this act. Effective immediately, the addition, amendment and/or repeal
54 of any rule or regulation necessary for the implementation of this act
55 on its effective date are authorized to be made and completed on or
56 before such date.